

Application No. 10/717,729
Amendment dated MAY 4, 2006
Reply to Office Action dated February 9, 2006

R E M A R K S

Favorable reconsideration is respectfully requested in light of the above amendments and the following comments. The specification has been amended to correct a typographical error. The independent claims have been amended to recite that the binding agent, which is a solid that is formed by combining HEDTA and water, is free of carbonate. This limitation is clearly supported in the specification, as the Examples illustrate binding agents that are free of carbonate. The claims have also been amended to address the objections raised by the Examiner. No new matter has been entered as a result of these amendments. Claims 1-69 are pending.

Claim Objections

The Examiner has objected to claims 1, 7, 33, 34, 46, 38 and 44 due to alleged informalities. The claims have been appropriately amended, thereby resolving the objections. Favorable reconsideration is respectfully requested.

Claim Rejections Under 35 U.S.C. §102

Claims 1, 5-9, 11-18, 21, 22, 34, 36, 38, 42-46, 48-55, 58 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Curry et al. (US Patent No. 4,560,492), hereinafter "Curry". In order to anticipate, the cited reference must disclose each and every claimed element. Curry fails to do so.

In particular, independent claims 1, 34, 36 and 38 (and hence all of the claims depending therefrom) each require a solid binding agent that forms from a combination of HEDTA (hydroxylethylenediaminetriaceticacid) and water. Curry does not disclose this claimed element.

While Curry may disclose compositions that, at some point, include both HEDTA and water, Curry cannot be considered as disclosing a solid binding agent that includes both HEDTA and water. Indeed, Curry describes forming either liquid or granular compositions. A liquid composition cannot be considered as a solid binding agent. Curry's granular compositions are formed via a spray drying process that would presumably remove the water required to form the claimed solid binding agent.

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Moreover, it is noted that the claimed invention now recites that the solid binding agent is free of carbonate. While Curry does not require the presence of carbonate, Applicants note that Curry teaches (see column 4) granular compositions including a significant amount of carbonate.

Curry fails to disclose a claimed element and thus cannot be considered as anticipatory. Curry also appears to teach away from the claimed invention. For at least these reasons, favorable reconsideration is respectfully requested.

Claim 36 is rejected under 35 U.S.C. 102(b) as being anticipated by Griffin, Jr. et al. (US Patent No. 5,472,633), hereinafter "Griffin". In order to anticipate, the cited reference must disclose each and every claimed element. Griffin fails to do so.

In particular, claim 36 requires formation of a solid binding agent. Griffin, in stark contrast, discloses a liquid iron chelant. A liquid does not anticipate a solid. Favorable reconsideration is respectfully requested.

Claim Rejections Under 35 U.S.C. §103

Claims 1-69 are rejected under 35 U.S.C. §102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wei et al. (US Patent 6,258,765), hereinafter "Wei". Favorable reconsideration is respectfully requested in light of the claim amendments presented herein.

Claims 19-20 and 56-57 are rejected under 35 U.S.C. §103(a) as being unpatentable over Curry as applied to the above claims, and further in view of Magari et al. (US Patent 4,416,809), hereinafter "Magari". Curry is distinguished above as failing to disclose the invention of claim 1 (from which claims 19-20 depend) or claim 38 (from which claims 56-57 depend). Magari, which is directed to granular compositions that are either formed via spray drying or that contain a strong alkaline builder, is not believed to remedy the noted shortcomings of Curry.

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Remarks on Double Patenting

Claims 1-11, 13, 15-16, 23 and 28-31 have been rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1, 7, 8 and 12-13 of U.S. Patent No. 6,258,765. Favorable reconsideration is respectfully requested in light of the claim amendments presented herein.

Claims 1-11, 13, 15-16, 23 and 28-31 have been rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1, 7, 8 and 13-16 of U.S. Patent No. 6,653,266. Favorable reconsideration is respectfully requested in light of the claim amendments presented herein.

Claim 1 has been rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claim 75 of U.S. Patent No. 6,660,707. Favorable reconsideration is respectfully requested in light of the claim amendments presented herein.

Claims 1-8, 13, 15-16, 31-32, 34 and 36 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1, 7-8, 10 and 12-13 of co-pending Application Serial No. 10/714,836. As the cited reference is pending, Applicants defer a possible Terminal Disclaimer until issuance of the reference. At any rate, favorable reconsideration of the rejection is respectfully requested in light of the claim amendments presented herein.

Claim 1 has been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claim 45 of co-pending Application Serial No. 11/009,315. As the cited reference is pending, Applicants defer a possible Terminal Disclaimer until issuance of the reference. At any rate, favorable reconsideration of the rejection is respectfully requested in light of the claim amendments presented herein.

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Conclusion

Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

ROGER L. STOLTE et al.

By their attorney.

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